

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

CYNTHIA GAIL LAKEY,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-06-273-RAW
)	
MIKE GRAHAM, et al.,)	
)	
Defendants.)	

ORDER

Before the Court is the motion of certain defendants for partial summary judgment. Plaintiff was a passenger in a truck driven by her son on July 12, 2005. A purported basis for the stop was an expired tag. As events unfolded, plaintiff was taken to the ground by officers and arrested. Plaintiff ultimately pled “no contest” to charges of obstructing an officer and resisting an officer.

The present motion is directed only to plaintiff’s claim that she was subjected to (in the complaint’s words) “an unlawful seizure and detention without probable cause or reasonable suspicion.” Movants take this phrase to mean “false arrest” regarding the charges. They argue that plaintiff’s plea of no contest negates any such claim (i.e., the plea demonstrates the existence of probable cause for the arrest).

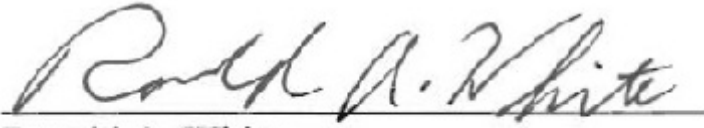
In response, plaintiff asserts that defendants misunderstand this portion of the complaint. She asserts that her claim of illegal seizure and detention relates to the traffic stop, not her subsequent arrest. Defendants’ reply brief essential reiterates the argument contained in its opening brief.

Based upon the briefs before the Court, the motion will be denied. A traffic stop is a seizure within the meaning of the Fourth Amendment. *United States v. Guerrero-Espinoza*, 462 F.3d 1302, 1307 (10th Cir.2006). A passenger in a stopped vehicle is likewise seized. *Id.* The fact that plaintiff entered a plea regarding conduct which took place outside the vehicle after the traffic stop has no bearing on the reasonableness of the traffic stop itself. While the motion is denied, plaintiff has of course expressly disavowed any claim of false arrest regarding the charges of obstructing an officer and resisting an officer.

It is the Order of the Court that the motion of certain defendants for partial summary judgment (#35) is hereby DENIED.

Dated this 28 November 2006.

J4h4i0


Ronald A. White
United States District Judge
Eastern District of Oklahoma